

STATE OF NORTH DAKOTA

**DEPARTMENT OF HUMAN SERVICES
STATE HOSPITAL
2605 CIRCLE DRIVE
JAMESTOWN, ND 58401**

REQUEST FOR PROPOSAL (RFP)

RFP TITLE: TRANSITIONAL LIVING FACILITIES

RFP Number: 325-06-06-014

Date of Issue: April 25, 2006

Purpose of RFP: To address transitional living of long-term patients at the North Dakota State Hospital through the development of two (2) facilities for adults with serious and persistent mental illness, dual diagnosed or with chronic addiction problems. The Department's objective is to have a residential type setting in an existing structure located in the state of North Dakota. The facility must staff a stand-alone portion of their facility to care for 15 individuals.

Vendors are not required to return this form.

Procurement Officer:

**Steve Brubakken
State Hospital
2605 Circle Drive
Jamestown, ND 58401
(701) 253-3954**

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SECTION ONE INTRODUCTION AND INSTRUCTIONS

1.01 Purpose of the RFP

The Department of Human Services, State Hospital, hereafter known as “purchasing agency” is soliciting proposals for the procurement of transitional living facility space for long-term patients currently residing at the North Dakota State Hospital through the development of two (2) facilities for adults with serious and persistent mental illness, dual diagnosed or with chronic addiction problems. The Department's objective is to have a residential type setting in an existing structure located in the state of North Dakota. The facility must staff a stand-alone portion of their facility to care for 15 individuals.

This proposal includes a total of 30 beds, and no one facility may exceed 15 beds. This proposal requires the use of existing or rented buildings and not new construction. A provider agreement will be executed between the successful vendor and the purchasing agency.

1.02 Contact Person, Telephone, Fax, E-mail

Procurement Officer:	Steve Brubakken	Project Director	Alex C. Schweitzer
Phone:	(701) 253-3954	Phone:	(701) 253-3964
Fax:	(701) 253-3938	Fax:	(701) 253-3999
E-Mail:	brubas@state.nd.us	E-Mail:	aschweit@state.nd.us

The Procurement Officer or the Project Director will be the only points of contact for this RFP. All vendor communications regarding this RFP must be directed to one of these individuals. Unauthorized contact regarding the RFP with other State employees of the purchasing agency may result in the vendor being disqualified, and the vendor may also be suspended or disbarred from the state bidders list.

1.03 RFP Schedule

This schedule of events represents the State's best estimate of the schedule that will be followed for this RFP. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule will be shifted by the same number of days.

The approximate RFP schedule is as follows:

RFP Issued:	Tuesday, April 25, 2006
Deadline For Receipt Of Letter of Intent:	Monday, May 8, 2006 @ 5:00 p.m. (CDT)
Conference With Prospective Vendors:	Monday, May 15, 2006 @ 10:00 am (CDT) Administrative Conference Room, 2 nd Floor LRC Building State Hospital, Jamestown, ND
Deadline For Written Questions:	Friday, May 19, 2006 @ 5:00 p.m. (CDT)
Final Date For Response To Questions:	Wednesday, May 24, 2006
Deadline For Receipt of Proposals:	Wednesday, June 7, 2006 @ 3:00 p.m. (CDT)
Issue Intent To Award:	Wednesday, June 21, 2006
Award Of Contract:	Wednesday, June 29, 2006
Contract Start Date:	Monday, July 3, 2006

1.04 Deadline for Receipt of Letter of Intent

Interested vendors must submit a Letter of Intent indicating their interest in the project by **5:00 p.m. (CDT) Monday, May 8, 2006**. The letter of intent should clearly and completely identify the name of the facility interested in submitting a proposal. Only vendors that submit a letter of intent will be allowed to submit and be guaranteed of receiving all mailings and information related to the RFP.

Envelopes containing the letter of intent must be addressed as follows to ensure proper delivery to the State.

**DEPARTMENT OF HUMAN SERVICES
NORTH DAKOTA STATE HOSPITAL
2605 CIRCLE DRIVE
JAMESTOWN, ND 58401**

**RFP: TRANSITIONAL LIVING FACILITIES
RFP Number: 325-06-06-014
Regarding: LETTER OF INTENT**

Vendors assume the risk of the method of dispatch chosen. The State of North Dakota ("State") assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt by the State. A vendor's failure to submit its letter of intent prior to the deadline will cause the Vendor's letter to be rejected.

1.05 Deadline for Receipt of Questions

Vendors must carefully review this solicitation and are required to submit any questions in writing or via e-mail format to the Program Director listed below by 5:00 p.m. (CDT) on Friday, May 19, 2006. The State will respond to all written questions by Wednesday, May 24, 2006. A copy of all questions and responses will be furnished to all vendors who have submitted a timely Letter of Intent. The project director is:

Alex C. Schweitzer, Superintendent
DHS Institutions
Department of Human Services
2605 Circle Drive
Jamestown, ND 58401
Telephone: (701) 253-3964
Fax: (701) 253-3666
E-Mail: aschweit@state.nd.us

1.06 Deadline For Receipt of Proposals

Vendors must submit an original and five copies of its proposal in a sealed envelope or package. Envelopes or packages containing proposals must be clearly addressed as described below to ensure proper delivery and to avoid being opened by the State before the deadline for receipt. Envelopes or packages must be addressed as follows:

**DEPARTMENT OF HUMAN SERVICES
NORTH DAKOTA STATE HOSPITAL
2605 CIRCLE DRIVE
JAMESTOWN, ND 58401**

**Request for Proposal (RFP): TRANSITIONAL LIVING FACILITIES
RFP Number: 325-06-06-014
Deadline: 3:00 p.m., June 7, 2006**

Proposals must be received by the project director at the location specified no later than 3:00 p.m. (CDT) on Wednesday, June 7, 2006. Proposals will not be publicly read at the opening.

Proposals may not be delivered orally, by facsimile transmission, by other telecommunication or electronic means. Proposals shall include all information requested in the Section Two - Scope of Proposal.

Vendors assume the risk of the method of dispatch chosen. The State assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt by the State. A vendor's failure to submit its proposal prior to the deadline will cause the Vendor's proposal to be rejected.

1.07 Assistance to Vendors with a Disability

Vendors with a disability that need an accommodation should contact the procurement officer prior to the deadline for receipt of proposals so that reasonable accommodation can be made.

1.08 Approved Vendor Registration Requirements

N.D.C.C. § 54-44.4-09 requires vendors that desire to submit bids or proposals for state contracts to become approved by registering with the North Dakota Secretary of State and Office of Management and Budget, State Procurement Office. Proposals will be accepted from vendors that are not currently approved vendors on the State's bidders list; however, the successful vendor will be required to become approved prior to award.

To become an approved vendor, vendors must: 1) be registered with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidders List Application to the North Dakota Vendor Registry Office. Prospective vendors may access the Procurement Vendor Database on-line to verify whether their firm is currently on the bidders list. The bidders list that will be used for this solicitation is Commodity Code 952: Human Services, Sub-Class 62: Mental Health Services: Vocational, Residential, Etc.

The Procurement Vendor Database, registration instructions and forms are available on-line at: <http://www.state.nd.us/csd/spo/vendor-resources.htm>.

Contact the Vendor Registry Office at 701-328-2773 or infospo@state.nd.us for assistance.

The successful vendor must register and become approved within 60 calendar days from the date of the Notice of Intent to Award. If a vendor fails to become approved by the time specified by the State, its proposal will be determined to be non-responsive, and its proposal will be rejected.

1.09 Conference For Interested Vendors

A conference will be held at 10:00 a.m., Monday, May 15, 2006 in the Administrative Conference Room, Second Floor of Learning Resource Center (LRC) on the State Hospital campus in Jamestown, North Dakota for all interested vendors. The purpose of the conference is to provide information on the State's expectations and to answer questions from potential vendors who have submitted a timely Letter of Intent.

Conference calls may be arranged for vendors unable to attend in person. Contact the project director no later than 3:00 p.m. (CDT) on Friday, May 12, 2006 if you will be attending via telephone.

Vendors with a disability needing accommodation should contact the procurement officer at (701) 253-3954 (TTY Users Call: 1-800-366-6888, Relay North Dakota) before the date set for the conference so that reasonable accommodation can be made. Arrangements for accommodations should be made no later than 3:00 p.m. (CDT) on Friday, May 12, 2006.

Questions and answers will be transcribed and sent to those vendors who have submitted a timely Letter of Intent as soon as possible after the meeting.

1.10 Amendments To The RFP

If an amendment to this RFP is issued, it will be provided to all vendors that have submitted a timely Letter of Intent.

1.11 Notice Provided

Notice of this solicitation has been provided in accordance with N.D.C.C. § 54-44.4-09 and § 54-44.7-03.

The Request for Proposal and any amendments to the RFP will be posted on the following website: <http://www.state.nd.us/humanservices>.

SECTION TWO – SCOPE OF PROPOSAL

2.01 Overview

The State Hospital has seen a dramatic increase in admissions, readmissions and length of stay of patients during the last two years. This increase far exceeds the previous five-year period. The hospital has a need for residential options for chronic patients in order to free bed space for acute patients. The hospital is in need of community residential options for people with serious mental illness, people that are dual diagnosed and people with addiction problems. The most immediate need is to reduce the capacity at the State Hospital.

The lack of the long-term residential level of care statewide has resulted in consumers remaining at the State Hospital or being placed in facilities not equipped to meet their needs. Many of the individuals in this group have multiple hospitalizations or long-term hospitalizations and require a more structured setting than what is now available in the community. The training of staff to provide for this population and the behavioral supports within these environments will be crucial to the success of this residential option.

The objective of this Request for Proposal (RFP) is to address transitional living of long-term patients at the North Dakota State Hospital through the development of two (2) facilities for adults with serious and persistent mental illness, dual diagnosed or with chronic addiction problems. The Department's objective is to have a residential type setting in an existing structure located in the state of North Dakota. The facility must staff a stand-alone portion of their facility to care for 15 individuals. The proposal would entail a total of 30 beds, and no one facility can exceed 15 beds. This proposal requires the use of existing or rented buildings and not new construction. A provider agreement will be executed between the successful vendor and the State.

2.02 Statement Of Work

The State is in need of the development of community residential options for individuals with serious mental illness, people that are dual diagnosed and people with addiction problems that are currently residing at the State Hospital. These individuals because of their chronic illness need housing, medication management, behavioral supports and are either independent or need reminders or minimal assistance with activities of daily living. These facilities will provide a transitional level of care for these individuals. The individuals would continue to receive daily care and rehabilitative services that would offer all of them the opportunity to progress in treatment to less restrictive and less costly levels of care.

Admission Criteria:

- The individual must be screened for admission by the State Hospital,
- The individual shall be at least 18 years of age and have a primary diagnosis of serious and persistent mental illness or chronic substance abuse addiction,
- The individual must not be a danger to oneself or to other individuals,
- The individual will not require 24 hour nursing care, but there must be available 24-hour on-site supervision,
- The individual must exhibit the ability to do most personal care independently or through prompting/supervision from staff; such as personal hygiene and bathing,
- The individual must agree to participate in treatment planning and comply with treatment recommendations; which include case management and medication management services,
- If an individual has a guardian, the guardian prior to admission must provide signed consent.

Discharge Criteria:

- The individual is screened as requiring skilled nursing care or hospitalization due to de-compensation of physical health.
- The individual is refusing or unable to “significantly” comply with the transitional living treatment program guidelines and this refusal is determined to be interfering with the care and treatment of this person and other residents.
- The individual has succeeded in treatment goals and demonstrating ability to function at a less restrictive level of care.
- The individual's court ordered commitment, either mental health or criminal, directs the individual to be discharged from the treatment program.
- The individual needs a temporary readmission to the State or Private Hospital for mental health treatment and services.

Staffing:

Each facility will be required to hire a program director/case manager employed by the facility to manage this program. The individual should have the skills and experience to provide case management and behavioral support services to these individuals. The facility will need at the very least an RN to manage medications and an activity therapist to provide activity programming. These three positions and the rest of staffing should be detailed in the vendor's budget. The vendor should develop a plan for the provision of mental health services, physician services and other needs for this population. Staff training can be arranged with the North Dakota State Hospital.

The following are the specific areas that must be addressed by each interested vendor.

A. Vendor's Experience and Qualifications

The Department of Human Services believes it is important that the selected vendor have appropriate background and knowledge in the provision of transitional living in general and for this special population in particular. This population has a need for behavioral supports for their mental illness. They also need assistance with medication management and reminders or minimal assistance to complete their activities of daily living. Some of the clients are independent in activities of daily living. The provider of service is required to have adequate training and experience to provide necessary services to this group of residents.

Please provide the following information regarding the vendor's background and experience with transitional living and the care of this special group of residents.

1. Provide a brief narrative explaining the background philosophy of the vendor's organization and how that philosophy will enable the vendor to provide services to this special group of residents.
2. Outline the specific experience the vendor's organization and staff has in delivering services to this population.

B. Building/Environment

Individuals in need of these services have care needs that prevent them from being mainstreamed into the general nursing facility or behavioral health facility population. Under normal circumstances, it is not anticipated that the proposed facility will be locked on a 24-hour basis. The facility must have the capability to become a locked secure facility in those instances of extreme emergency due to the behavior of a resident. The Department is seeking the least restrictive environment that will meet the needs of this population. Please provide the following information regarding the plan to provide a safe and functional building environment for this group of residents.

1. Provide a floor plan for the proposed facility.
2. Describe how the building will be used to meet the objectives of this proposal.
3. Explain what security system will be used to control resident behaviors such as Wander guards and locked door policies.
4. Please describe the type of accommodations that residents will be provided at the facility. (single rooms or double rooms etc.).
5. Provide information that documents the facility meets all life safety code requirements and fire safety requirements.
6. Explain how residents will be provided meals and activities within the confines of the facility.

C. Admission/Discharge Criteria

Please state your facility's ability to comply with the admission/discharge criteria outlined in Section 2.02 of this proposal.

D. Staffing

Staff providing direct care services to individuals with chronic mental health needs must be knowledgeable and experienced in providing services to individuals with severe mental illness who may have complicating physical conditions. Also adequate professional staff with background in the treatment of mental illness must be available to meet the needs of residents and provide technical assistance to the staff of the facility providing direct care to this special population. The State Hospital currently cares for these individuals and would be able to provide more detailed information directly to any interested vendor. Please provide the following information about staff that will be employed or contracted to deliver services to residents in your facility.

1. Describe the staffing pattern that will be used to provide services to the residents including administration and supervision for the facility.
2. Describe the number and type of mental health professionals that will be employed or contracted to provide direct care and/or technical assistance to the direct care staff of the facility.
3. Describe the specific duties and responsibilities that will be expected for each category of staff that will be employed to provide services to residents of the facility.
4. Describe the type of in-service training that will be provided to staff in order that they can properly care for this group of residents.
5. Describe the content of the orientation program that will be used for all employees to ensure they understand the needs and special care requirements of the residents of the facility.

E. Program

The program plan used by a facility to provide services to these residents is important to ensure that adequate outcomes are achieved for these residents. This population requires specialized program needs in order for residents to meet their highest possible functioning level. Please provide the following information regarding the proposed program you intend to operate.

1. Describe the overall program goals that the facility will strive for in providing services to this group of residents.
2. Describe what additional tools, if any, will be used to assess the needs of residents.
3. Describe how the facility will use the plan of care process to meet the special needs of the residents of the facility.
4. Describe the behavioral management techniques that will be used to assist residents to function in the most appropriate manner possible.
5. Describe the type of program activities that will be available to residents.
6. Describe the policy that will be utilized regarding the use of restraints and medications.

F. Quality Assurance

It is imperative that policies are in place to ensure residents receive adequate and appropriate care. Please provide the following information regarding quality assurance.

1. Delineate what outcome measurements will be used to determine if the services provided are meeting the needs of residents.

G. Cost

Cost is always a major factor when considering approval of special projects and it is important that the needed services are provided in a cost-effective manner. Room and Board costs will be the responsibility of each individual client.

The Department recognizes that additional staffing, including appropriate mental health professionals, is essential to the success of the proposed facility. For this reason, the Department will establish a special rate beyond collected room and board payments for this population. Facility costs will be based on resident days.

Please provide the following information regarding the cost of the project. The cost information should be prepared based on 100% occupancy.

1. Identify cost of all nursing personnel, therapists, mental health professionals and other employees needed to staff the facility.
2. Identify fringe benefit costs for staff identified above.
3. Identify subcontractor costs for mental health professionals that will not be employed directly by the facility.
4. Identify appropriate operating costs. (food, supplies, transportation etc).
5. Describe any other costs which are unique to this facility and which are not currently incurred in your existing facility.

H. Time Frame

The vendor must demonstrate the ability to implement this project in a timely manner.

Please provide the following information:

1. Indicate the time frame for implementation of the project.
2. Describe how the vendor intends to meet the time frame.

2.03 Required Enclosures

Vendors will be required to provide the following documents;

- Current copies of all licenses or certifications required to be held by the N. D. Century Code or healthcare regulatory agencies.
- A list of recent and current work performed for the Department of Human Services, State Hospital and/or the State of North Dakota.
- Certificate(s) of insurance indicating appropriate coverage.
- A Workers Compensation statement indicating firm's current payment status.

SECTION THREE - GENERAL CONTRACT INFORMATION

3.01 Contract Term and Renewal Option

The State intends to enter into a contract with an effective date beginning Monday, July 3, 2006 and ending June 30, 2007.

This contract may be renewed upon satisfactory completion of the initial contract term. The state reserves the right to execute up to two options to renew this contract annually under the same terms and conditions for a period of 12 months each. This contract will not automatically renew. The State will provide written notice to the contractor of its intent to renew this contract at least sixty (60) days before the scheduled contract expiration date.

3.02 Standard Contract Provisions

The successful vendor will be required to sign and submit a contract similar to the one attached to this RFP (Attachment A). The vendor must comply with the contract provisions set out in this attachment. Any objections to the contract provisions must be set out in the vendor's proposal. No alteration of these provisions will be permitted without prior written approval from the purchasing agency.

Vendors are instructed to contact the procurement officer in writing by the deadline set for questions with any concerns regarding the contract provisions.

3.03 Proposal as a Part of the Contract

Part or all of this RFP and the successful proposal may be incorporated into the contract.

3.04 Additional Terms and Conditions

The State reserves the right to add, delete, or modify terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

3.05 Supplemental Terms and Conditions

Proposals including supplemental terms and conditions may be accepted, but supplemental conditions that conflict with those contained in this RFP or that diminish the State's right's under any contract resulting from the RFP will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award. After award of contract:

- (a) if conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- (b) if the State's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

3.06 Contract Approval

This RFP does not, by itself, obligate the State. The State's obligation will commence when the State approves the contract. Upon written notice to the vendor, the State may set a different starting date for the contract. The State will not be responsible for any work done by the vendor, even work done in good faith, if it occurs prior to the contract start date set by the State.

3.07 Contract Changes - Unanticipated Amendments

During the course of this contract, the vendor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the project director designated by the State will provide the vendor a written description of the additional work and request the vendor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of contract amendments.

The vendor will not commence additional work until the project director has secured any required State approvals necessary for the amendment and issued a written contract amendment, approved by the State.

3.08 Taxes and Taxpayer Identification

The vendor must provide a valid Vendor Tax Identification Number as a provision of the contract.

The State is not responsible for and will not pay local, state, or federal taxes. The State sales tax exemption number is E-2001, and certificates will be furnished upon request by the purchasing agency.

A vendor performing any contract, including a service contract, within North Dakota is also subject to the corporation income tax, individual income tax, and withholding tax reporting requirements, whether the contract is performed by a corporation, partnership, or other business entity, or as an employee of the vendor. In the case of employees performing the services in the state, the vendor is required to withhold state income tax from the employees' compensation and remit to the state as required by law. Contact the North Dakota Tax Department at 701-328-3125 or visit its web site for more information.

3.09 Proposed Payment Procedures

The State will make payments based on a negotiated payment schedule. Written request for payment shall be submitted on a monthly basis to the Project Director for final approval and processing. The State will not make any advanced payments before performance by the vendor under this contract.

3.10 Inspection & Modification - Reimbursement for Unacceptable Deliverables

The vendor is responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and approval by the project director designated by the State. The State may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. Should the project director determine that corrections or modifications are necessary in order to accomplish its intent, the project director may direct the vendor to make changes. The vendor will not unreasonably withhold changes.

Substantial failure of the vendor to perform the contract may cause the State to terminate the contract. In this event, the State may require the vendor to reimburse monies paid (based on the identified portion of unacceptable work received) and may seek associated damages.

3.11 Termination for Default

If the project director designated by the State determines that the vendor has refused to perform the work or has failed to perform the work with diligence as to ensure its timely and accurate completion, the State may, by providing written notice to the vendor, terminate the vendor's right to proceed with part or all of the remaining work.

This clause does not restrict the State's right to termination under the contract provisions of the Service Contract, attached.

SECTION FOUR - EVALUATION CRITERIA AND CONTRACTOR SELECTION

4.01 Proposal Format and Content

The State discourages overly lengthy and costly proposals; however, in order for the State to evaluate proposals fairly and completely, vendors must follow the format set out in this RFP and provide all information requested.

4.02 Introduction

Proposals must include the vendor's complete name and address and the name, mailing address, and telephone number of the person the State should contact regarding the proposal.

Proposals must confirm that the vendor will comply with all provisions in this RFP. The proposal must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota).

Proposals must be signed by a company officer empowered to bind the company. A vendor's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

Proposals will be evaluated and selections made based on compliance with specifications and objectives outlined in this RFP. The criteria and assigned percentages are:

4.03 Vendor's Experience and Qualifications:

Seven Percent (7%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Background and philosophy of vendor.
- b. Experience of organization and staff.

4.04 Building and Environment:

Fifteen Percent (15%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Building plans meet the needs of residents including safety, meals and activities.
- b. Environment promotes appropriate care for residents.

4.05 Admission / Discharge Criteria:

Five Percent (5%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Ability to comply with admission criteria outlined in Section 2.02.
- b. Ability to comply with discharge criteria outlined in Section 2.02.

4.06 Staffing:

Twenty Percent (20%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Appropriateness of staffing patterns
- b. Appropriateness of the number and type of professional mental health providers.
- c. Appropriateness of staff duties and responsibilities.
- d. Appropriateness of staff in service training and orientation.

4.07 Program:

Twenty Percent (20%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Appropriateness of goals to meet the needs of residents.
- b. Adequacy of assessment tools and use of plans of care.
- c. Adequacy of behavioral management techniques including use of restraints and medications.
- d. Appropriateness of activity program for this population.

4.08 Quality Assurance:

Eight Percent (8%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Adequacy of outcome measurements to meet the needs of residents.

4.09 Cost:

Fifteen Percent (15%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Extent to how the budget addresses objectives of the RFP.
- b. Justification for budgeted expenditures.

4.10 Timeframes:

Ten Percent (10%) of the total possible evaluation points will be assigned to this criterion. Proposals will be evaluated on the following objectives:

- a. Ability to implement the project in a timely manner.

SECTION FIVE - STANDARD PROPOSAL INFORMATION

5.01 Authorized Signature

An individual authorized to bind the vendor to the provisions of the RFP must sign all proposals.

5.02 State Not Responsible for Preparation Costs

The State will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

5.03 Conflict of Interest

Vendors must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota). The State reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the vendor's proposal. The State's determination regarding any questions of conflict of interest is final.

5.04 Vendor's Certification

By signature on the proposal, a vendor certifies that it complies with:

- a) the laws of the State of North Dakota;
- b) North Dakota Administrative Code;
- c) all applicable local, state, and federal laws, code, and regulations;
- d) the applicable portion of the Federal Civil Rights Act of 1964;
- e) the Equal Employment Opportunity Act and the regulations issued by the federal government;
- f) the Americans with Disabilities Act of 1990 and the regulations issued by the federal government;
- g) all terms, conditions, and requirements set forth in this RFP;
- h) a condition that the proposal submitted was independently arrived at, without collusion;
- i) a condition that the offer will remain open and valid for the period indicated in this solicitation; and
- j) a condition that the firm and any individuals working on the contract do not have a possible conflict of interest (e.g. employed by the State of North Dakota).

If any vendor fails to comply with the provisions stated in this paragraph, the State reserves the right to reject the proposal, terminate the contract, or consider the contractor in default.

5.05 Offer Held firm

Proposals must remain open and valid for at least thirty (30) days from the deadline specified for submission of proposals. In the event award is not made within thirty (30) days, the State will send a written request to all vendor deemed susceptible for award asking vendors to hold their price firm for a longer specified period of time.

5.06 Amendments to Proposals and Withdrawals of Proposals

Vendor may amend or withdraw proposals prior to the deadline set for receipt of proposals. No amendments will be accepted after the deadline unless they are in response to the State's request. After the deadline, vendors may make a written request to withdraw proposals and provide evidence that a substantial mistake has been made. The procurement officer may permit withdrawal of the proposal upon verifying that a substantial mistake has been made, and the State may retain the vendor's bid bond or other bid type of bid security, if one was required.

5.07 Subcontractors

Subcontractors may be used to perform work under this contract. If a vendor intends to use subcontractors, the vendor must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform.

If a proposal with subcontractors is selected, the vendor must provide the following information concerning each prospective subcontractor within five working days from the date of the State's request:

- (a) complete name of the subcontractor;
- (b) complete address of the subcontractor;
- (c) type of work the subcontractor will be performing;
- (d) percentage of work the subcontractor will be providing;
- (e) evidence, as set out in the relevant section of this RFP, that the subcontractor is registered and, if applicable, holds a valid North Dakota business license; and
- (f) a written statement, signed by each proposed subcontractor, that clearly verifies that the subcontractor is committed to render the services required by the contract.

A vendor's failure to provide this information, within the time set, may cause the State to consider its proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the State's procurement officer or project manager designated by the State.

5.08 Joint Ventures

Joint ventures will not be allowed.

5.09 Disclosure of Proposal Contents and Compliance with North Dakota Open Records Laws

All proposals and other material submitted become the property of the State and may be returned only at the State's option. All proposals and related information, including detailed cost information, are exempt records and will be held in confidence until an award is made, in accordance with N.D.C.C. § 54-44.4-10(2).

Vendors may make a written request that trade secrets and other proprietary data contained in proposals be held confidential. Material considered confidential by the vendor must be clearly identified, and the vendor must include a brief statement that sets out the reasons for confidentiality. See the North Dakota Office of the Attorney General website for additional information.

<http://www.ag.state.nd.us/OpenRecords/ORM.htm>

After award, proposals will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer, in consultation with the Office of the Attorney General, will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately.

5.10 Evaluation of Proposals

All proposals will be reviewed to determine if they are responsive to the requirements of this solicitation. The project director or an evaluation committee will evaluate responsive proposals. The evaluation will be based solely on the evaluation factors set forth in this RFP. The evaluation will consider information obtained subsequent to any discussions with vendors determined to be reasonable for award and any demonstrations, oral presentations, or site inspections, if required in this RFP.

5.11 Right of Rejection

The State reserves the right to reject any proposals, in whole or in part. Proposals received from debarred or suspended vendors will be rejected. The procurement officer may reject any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of the RFP.

Vendors may not qualify the proposal nor restrict the rights of the State. If a vendor does so, the procurement officer may determine the proposal to be non-responsive, and the proposal may be rejected.

The procurement officer may waive minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are insignificant, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision,

The State reserves the right to reject any proposal determined to be not responsive, and to reject the proposal of a vendor determined to be not responsible. The State also reserves the right to refrain from making an award if it determines it to be in its best interest.

5.12 Clarification of Offers

In order to determine if a proposal is reasonably susceptible for award, communications by the project director or the proposal evaluation committee are permitted with a vendor to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The initial evaluation may be adjusted because of a clarification under this section.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

5.13 Preference Laws

The preference given to a resident North Dakota vendor will be equal to the preference given or required by the state of the nonresident bidder. A "resident" North Dakota bidder, vendor, seller, or contractor is one that has maintained a bona fide place of business within this State for at least one year prior to the date on which a contract was awarded. For a listing of state preference laws, visit the following website: http://tpps.das.state.or.us/purchasing/pref-law/reciprocal_detail.php or contact the North Dakota State Procurement Office at 701-328-2683.

5.14 Contract Negotiation

After final evaluation, the procurement officer may negotiate with the vendor of the highest-ranked proposal. Negotiations, if held, will be within the scope of the request for proposals and limited to those items that would not have an effect on the ranking of proposals. If the highest-ranked vendor fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations and negotiate with the vendor of the next highest-ranked proposal.

If contract negotiations are held, the vendor will be responsible for all cost including its travel and per diem expenses.

5.15 Notice of Intent to Award - Vendor Notification of Selection

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award and send copies to all qualified vendors. The Notice of Intent to Award will set out the names and addresses of all vendors and identify the proposal selected for award. The scores and placement of other vendors will not be part of the Notice of Intent to Award.

The successful vendor named in the Notice of Intent to Award is advised not to begin work, purchase materials, or enter into subcontracts relating to the project until both the successful vendor and the State sign a contract.

5.16 Protest and Appeal

North Dakota law provides that an interested party may protest a solicitation. If an interested party wishes to protest the content of this RFP, the protest must be received, in writing, by the procurement officer at least seven calendar days before the deadline for receipt of proposals.

An interested party may protest the award or proposed award of a contract. If a vendor wishes to protest the award of a contract or proposed award of a contract, the protest must be received, in writing, by the procurement officer within seven calendar days after the date the Notice of Intent to Award was issued.

SECTION SIX - ATTACHMENTS

6.01 Attachments

- A. Contract Template

ATTACHMENT A

SAMPLE CONTRACT TEMPLATE

CONTRACT #

PURCHASE OF SERVICE AGREEMENT

WHEREAS, the State of North Dakota, acting through its North Dakota Department of Human Services, State Hospital (State), has determined the services referred to in the paragraph below entitled "Scope of Service" should be purchased; and

WHEREAS, [VENDOR], (Vendor) proposes to provide those services;

NOW, THEREFORE, the State and Vendor enter into the following:

I. TERM OF THE AGREEMENT

The term of this agreement shall be from the ____ day of ____ 200__ through the ____ day of ____ 200__. However, this agreement may be terminated with or without cause by either party giving the other party thirty (30) days prior written notice.

II. SCOPE OF SERVICE

The Vendor agrees to provide

III. COMPENSATION

The State, upon written request of the Vendor, agrees to pay the Vendor \$____ for completing the scope of service. Total payment under the terms of this agreement shall not exceed \$____.

Final payment requests shall be submitted to the State no later than thirty (30) days after the expiration of this agreement.

IV. VENDOR'S UNDERSTANDING OF TERM OF FUNDING

The Vendor understands that this agreement is a one-time agreement, and acknowledges that it has been furnished no assurances that this agreement may be extended for periods beyond its termination date.

V. VENDOR ASSURANCES

This agreement shall be construed according to the laws of the State of North Dakota. In connection with the furnishing of supplies or performance of work under this agreement, persons who contract with or receive funds to provide services to the North Dakota Department of Human Services are obligated and agree to comply with all local, state and federal laws, regulations and executive orders related to the performance of this agreement including but not limited to the following: Fair Labor Standards Act, Equal Pay Act of 1963, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the North Dakota Human Rights Act, the Drug Abuse Prevention Treatment and Rehabilitation Act of 1970, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1992, the Pro-children Act of 1994, and the Drug-free Workplace Act of 1988. Questions regarding the provision of services according to these acts may be directed to Krista L. Andrews, Contract Officer, North Dakota Department of Human Services, Judicial Wing, State Capitol, 600 E. Boulevard, Bismarck, ND 58505 (701-328-2311 or 701-328-3975 TDD).

The Vendor certifies by signing this agreement that neither the Vendor, Subcontractor, nor their principals, are presently debarred, declared ineligible or voluntarily excluded from participation in transactions with the State or Federal Government by any Department or Agency of the Federal Government.

Vendor shall be an approved vendor with the Office of Management and Budget within the State of North Dakota as required by NDCC § 54-44.4-09.

VI. AUTHORITY TO CONTRACT

The Vendor shall not have the authority to contract for or on behalf of or incur obligations on behalf of the State. However, the Vendor may subcontract with qualified Vendors of services provided that any such subcontract shall acknowledge the binding nature of this agreement, and incorporate this agreement, together with its attachments as appropriate. The Vendor agrees to be solely responsible for the performance of any subcontractor.

VII. INDEPENDENT ENTITY

The Vendor shall perform as an independent entity under this agreement. The Vendor, its employees, agents, or representatives are not employees of the State for all purposes, including but not limited to, the application of the Social Security Act, the Fair Labor Standards Act, the Federal Insurance Contribution Act, the Federal Unemployment Act, the North Dakota Unemployment Compensation Law, and the North Dakota Workers' Compensation Act. No part of this agreement shall be construed to represent the creation of an employer/employee relationship. The Vendor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Vendor's activities and responsibilities under this agreement.

VIII. NONPERFORMANCE

Failure by the Vendor to perform the terms of this agreement shall constitute a breach of contract, and shall result in the immediate termination of the agreement. In the event of a termination for breach by the Vendor, the State may retain, as liquidated damages, any payment to be made under this agreement which remains unpaid at the time of the breach, and may also recover from the Vendor, those amounts already paid for individual items of work which are incomplete at the time of the breach.

However, should a breach by the Vendor be caused by circumstances, beyond the control of the Vendor, and no fault of its own, so as to render the agreement impossible of performance by the Vendor, then the agreement shall be terminated. In the event of a breach, by the Vendor, in such circumstances, the State may set off, against any liability or obligations owed to the Vendor, under this agreement or otherwise, any amounts paid for individual items of work which are incomplete at the time of the breach, but shall not be entitled to liquidated damages.

The State shall give written notice, to the Vendor, of the termination, which notice shall specify the effective date thereof.

IX. TERMINATION OF AGREEMENT FOR INADEQUACY OF FUNDS

It is agreed that in the event appropriations to the Department of Human Services are not obtained and continued at a level sufficient to allow for payments to the Vendor, for the services identified in Paragraph II, the obligations of each party hereunder may be terminated at the option of the State, provided that any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

X. INDEMNITY

Vendor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from claims resulting from the performance of the Vendor or its agent, including all costs, expenses and attorneys' fees, which may in any manner result from or arise out of this agreement. The legal defense provided by Vendor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Vendor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

XI. INSURANCE

Vendor shall secure and keep in force during the term of this agreement and Vendor shall require all subcontractors, prior to commencement of an agreement between Vendor and the subcontractor, to secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:

- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 2) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
- 3) Workers compensation coverage meeting all statutory requirements. The policy shall provide coverage for all states of operation that apply to the performance of this contract.
- 4) Employer's liability or "stop gap" insurance of not less than \$1,000,000 as an endorsement on the workers compensation or commercial general liability insurance.
- 5) Professional errors and omissions, including a three year "tail coverage endorsement," with minimum liability limits of \$1,000,000 per occurrence and in the aggregate.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Vendor.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an "A-" rating must be approved by the State. The policies shall be in form and terms approved by the State.
- 3) The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by the Vendor in excess of the minimum requirements set forth above. The duty to indemnify the State under this agreement shall not be limited by the insurance required in this agreement.
- 4) The State of North Dakota and its agencies, officers, and employees (State) shall be endorsed on the commercial general liability policy, including any excess policies (to the extent applicable), as additional insured. The State shall have all the benefits, rights and coverages of an additional insured under these policies.
- 5) the insurance required in this agreement, through a policy or endorsement, shall include:
 - a) a "Waiver of Subrogation" waiving any right to recovery the insurance company may have against the State;
 - b) a provision that the policy and endorsements may not be canceled or modified without thirty days' prior written notice to the undersigned State representative;
 - c) a provision that any attorney who represents the State under this policy must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08;

- d) a provision that Vendor's insurance coverage shall be primary (i.e. pay first) as respects any insurance, self-insurance or self-retention maintained by the state and that any insurance, self-insurance or self-retention maintained by the State shall be in excess of the Vendor's insurance and shall not contribute with it;
- e) cross liability/severability of interest for all policies and endorsements;
- 6) The legal defense provided to the State under the policy and any endorsements must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary.
- 7) The Vendor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement. All endorsements shall be provided as soon as practicable.
- 8) Failure to provide insurance as required in this agreement is a material breach of contract entitling the State to terminate this agreement immediately.

XII. ACCESS TO BOOKS AND RECORDS

The State, federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Vendor which are pertinent to the services provided under this agreement for the purpose of making an audit, examination, or making excerpts and transcripts. This documentation shall be available for a period of three (3) years from the date of submission of the final expenditures report.

XIII. NOTICE

Any notice required or permitted to be given pursuant to this agreement may be personally served on either party by the party giving such notice, or may be served by certified mail, return receipt requested, addressed to the executive office of the party upon whom service is made.

XIV. INTEGRATION AND MODIFICATION

This contract constitutes the entire agreement between the Vendor and the State. No alteration, amendment, or modification in the provisions of this agreement shall be effective unless it is reduced to writing, signed by the parties and attached hereto.

XV. COLLATERAL CONTRACTS

Where there exists any inconsistency between this agreement and other provisions of collateral contractual agreements which are made a part of this agreement by reference or otherwise, the provisions of this agreement shall control.

XVI. APPLICABLE LAW

This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota.

XVII. ASSIGNMENT

Neither Party shall assign this agreement and rights without the written approval of the other Party. Such approval shall not be unreasonably withheld. This agreement shall be equally binding on the respective Parties, their successors and assigns.

XVIII. CONFIDENTIAL INFORMATION

The Vendor agrees not to use or disclose any information it receives from the State under this agreement that is confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this agreement or as authorized in advance by the State. The State agrees not to disclose any information it receives from the Vendor which the Vendor has previously identified as confidential and which the State determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, North Dakota Century Code § 44-04-18. The duty of the State and the Vendor to maintain confidentiality of information under this section continues beyond the term of this agreement, including any extensions or renewals.

XIX. OWNERSHIP OF WORK PRODUCT

All work product, equipment or materials created or purchased under this agreement belong to the state and must be delivered to state at state's request upon termination of this agreement. Vendor agrees that all materials prepared under this agreement are "works for hire" within the meaning of copyright laws of the faciltiyed states and assigns to the state all rights and interests vendor may have in the materials it prepares under this agreement, including any right to derivative use of the material. Vendor shall execute all necessary documents to enable the state to protect its rights under this section. Use of work product or materials for purposes other than the scope of this agreement must be approved in writing by the state.

XX. COMPLIANCE WITH PUBLIC RECORDS LAWS

Vendor understands that, except for disclosures prohibited in Section XVIII, the State must disclose to the public upon request any records it receives from vendor. Vendor further understands that any records which are obtained or generated by the vendor under this agreement, except for records that are confidential under Section XVIII, may, under certain circumstances, be open to the public upon request under the North Dakota open records law. Vendor agrees to contact the State immediately upon receiving a request for information under the open records law and to comply with the State's instructions on how to respond to the request.

XXI. ATTORNEY FEES

In the event a lawsuit is instituted by the State to obtain performance due to any kind under this agreement, and the State is the prevailing party, vendor shall, except when prohibited by N.D.C.C. § 28-26-04, pay the State's reasonable attorney fees and costs in connection with the lawsuit.

XXII. ATERNATIVE DISPUTE RESOLUTION – JURY TRIAL

The State does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. The State does not waive any right to a jury trial.

XXIII. SPOLIATION – NOTICE OF POTENTIAL CLAIMS

Vendor shall promptly notify State of all potential claims which arise from or result from this agreement. Vendor shall also take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to the State the opporfacilityy to review and inspect the evidence, including the scene of an accident.

[VENDOR]

By _____ DATE _____

Its _____
(TITLE)

Vendor's Federal Identification Number

STATE OF NORTH DAKOTA

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

By _____ DATE _____
CAROL K. OLSON
EXECUTIVE DIRECTOR

By _____ DATE _____
ALEX C. SCHWEITZER, SUPERINTENDENT
STATE HOSPITAL

By _____ DATE _____
KRISTA L. ANDREWS
CONTRACT OFFICER